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HEADLINE: POISON IN THE MUD ;
BERRY'S CREEK POLLUTION CURE PROVES ELUSIVE

BYLINE: BRUNO TEDESCHI, Trenton Bureau

BODY:

A lesser yellowlegs sits on the muddy bank of Berry's Creek, taking a well-deserved break from his long migratory flight from the Arctic to South America. A blue heron soars above the tall grass, while a family of mallards waddles down a narrow path.

On the surface, Berry's Creek and its surroundings appear to be a healthy, thriving tidal marsh. But it is, in fact, a sick ecosystem struggling to overcome decades of industrial assaults.

Berry's Creek, which flows through Carlstadt, along the western edge of the Meadowlands Sports Complex, and into the Hackensack River in East Rutherford, is contaminated with mercury, PCBs, heavy metals, and a host of other hazardous chemicals that make it one of the most polluted waterways in New Jersey.

The contamination poses a health threat to fishermen and crabbers who defy or don't notice the warning signs, and to neighbors who have had their lawns ripped up to remove tainted soil when the creek has overflowed.

Yet state environmental officials have no plans to clean up the four-mile waterway, which begins as a ditch near Teterboro Airport.

For decades, the state tried to force the owners of a now defunct mercury plant to clean up their property and a section of the creek. But the state quietly gave up that fight last year and agreed to the company's request to proceed only with a cleanup of the property.

"We're not sure we know how to clean up Berry's Creek without creating a lot of problems," said Richard Gimello, an assistant commissioner in charge of cleanups for the state Department of Environmental Protection.

The DEP in the early 1980s planned to dredge a 12,000-foot stretch of the creek, but it abandoned the \$ 4 million proposal in 1983 and agreed to look into other ways to clean up the creek. No other economically feasible option has emerged since then, Gimello said.

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State environmental officials fear that dredging the creek could do more damage than good by introducing mercury, now buried under the muck into the water. Gimello said the DEP is looking into high-technology solutions, but he acknowledges that they are a long way from being used.

"I don't want to send a signal that these guys are off the hook, but I really don't see us taking on Berry's Creek in the next decade," said Gimello. "I don't see that happening."

For years, Berry's Creek was used as an open sewer by the many chemical companies in the industrial sections of East Rutherford, Carlstadt, and Wood-Ridge. One chemical company, a former mercury plant that operated for 45 years in Wood-Ridge, discharged mercury into the creek daily, for decades, according to a suit filed by the DEP in 1976.

By the early 1970s, the creek was so polluted that it could no longer support aquatic life.

The dumping has been stopped, but the damage remains. For a stretch of several thousand feet, the concentration of mercury in the creek is the highest found in freshwater sediments in the world, according to court documents. There are more than 100 known contaminated sites in the Berry's Creek watershed, a 22-square-mile area from Lyndhurst to Hackensack.

A 1985 consultant's study of the creek determined that the primary source of the mercury contamination was the former mercury processing plant in Wood-Ridge, known today as the Ventron-Velsicol Superfund site.

Some of the other contaminated sites, however, may have contributed mercury and other pollutants to the creek, DEP officials said.

The impact on humans

The human impact of the contamination can be felt in the places where Berry's Creek winds past homes or where it passes under bridges that make tempting spots to crab or fish.

Just south of Teterboro Airport, where Berry's Creek begins, lies a tiny residential neighborhood in Wood-Ridge. When the creek floods, homeowners find water in their yards and sometimes in their living rooms.

In the late 1980s, the DEP took soil samples and found mercury levels higher than allowed for residential properties, prompting the agency in September 1990 to remove 1,800 tons of tainted soil from 10 homes.

Kurt Reichert, who lives on Union Street in one of the homes where soil was removed, said the creek overflowed on several occasions since 1990, including a major flood during a nor'easter in December 1992. He said the DEP has not been back to test the soil in his yard.

Edward W. Putnam, assistant director of remedial planning and design for the DEP, said there is little chance that the mercury would have contaminated the yards. The DEP has not retested the soil on residential properties, but at the request of local emergency management officials it tested sediments on the shore after the 1992 nor'easter and found no contamination, Putnam said.

"The mercury in the creek is buried under several layers of sediment. It's unlikely that the mercury would come back," Putnam said.

"We tested a few areas after some of the big storms, and there was no mercury."

Fishing and crabbing in the creek are prohibited, but the ban is widely ignored. "Unless you sit there all day, there's going to be certain... guys who you can't stop," Putnam said.

James Amato of Cliffside Park and Michael Aversa of Palisades Park come to the Paterson Plank Road bridge three or four times a week to fish for blue crab. They bait their traps with chicken, toss them over the bridge, and wait. By midmorning one recent day, they had caught three 6-inch blue crabs.

The men, both in their seventies, say they don't eat the crabs because they no longer have the manual dexterity to pick them apart.

They give the crabs to friends and family, who eat them or use them to make a sauce. They are aware of the restrictions, but don't think much of them.

"We've been crabbing for 50 years, and I never heard of anyone dying eating crabs," Amato said. "Let's face it, the whole world is contaminated."

The most typical way people are exposed to mercury is by eating fish and shellfish, which store mercury in their muscles and PCBs in their skin and fat. PCBs can cause liver, kidney, and skin damage. The most toxic form of mercury — methyl mercury — can permanently damage the brain and kidneys and harm the development of fetuses.

A 1988 study by the U.S. Army Corps of Engineers found that the mercury contamination in Berry's Creek is tightly held in the sediments in an inorganic form that is not readily taken up by aquatic life. Under certain conditions, however, the mercury can be converted into methyl mercury.

"Of greatest concern is the possibility that the mercury, which has been relatively stable, will undergo a chemical change into a state that is considered more toxic to humans," said a 1984 DEP document.

Scientific challenges

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The removal of contaminants from Berry's Creek is complicated by scientific challenges, and figuring out who will pay for it is a legal quagmire.

Velsicol Corp. and Morton International were deemed responsible by the state Supreme Court in 1983 for cleaning up the Ventron-Velsicol Superfund site. Following the court decision, the DEP tried to compel Velsicol and Morton to clean up not only the Superfund site but also a large stretch of the creek. The companies, however, insisted that others should share the cost of cleaning up the creek, and last year the state agreed, clearing the way for preliminary work to begin on the Superfund site this fall.

In documents filed with the DEP and in a federal lawsuit, Morton and Velsicol say four other companies, Diamond Shamrock, Randolph Products, Arsynco, and Cosan, should help pay for the cleanup of Berry's Creek.

Representatives from several of the companies said they are not responsible for the creek pollution.

"They're just pointing fingers to deflect blame to other people," said John Randolph, owner of Randolph Products. "Our company is not responsible."

Henkel Corp., which owns Diamond Shamrock, also denied any responsibility for the creek, a spokesman said.

In addition to Ventron-Velsicol, Diamond Shamrock, Arsynco, and Cosan, there are 98 other known contaminated sites in the Berry's Creek watershed, including two other Superfund sites, Universal Oil Products in East Rutherford and Scientific Chemical Processing in Carlstadt. Both Superfund sites are being cleaned up.

The DEP drafted a directive in 1993 and planned to send it to about 90 companies in the watershed to tell them that they must share in the cost of cleaning up the creek. But Gimello's predecessor, Lance R. Miller, decided not to send it, DEP officials said. Gimello said the directive would have been impossible to enforce.

"The key to making a directive work in this case or in any other case is having an or else at the end of the letter, as in: Clean it up, or else the department will come in and do it for you," Gimello said. "That's what makes a directive work. There's no or else here, because the scope of cleaning up an entire estuary as a regional case is just impractical."

(GRAPHIC TEXT, PAGE a08)

BERRY'S CREEK

Some of the sites that may have contributed pollutants into Berry's

Creek.

1. VENTROL/VELSICOL

1 Ethyl Avenue, Wood-Ridge. Mercury

Cleanup Status: No Cleanup had been done on this site. An investigation to determine the extent of contamination is scheduled to begin in the fall.

2. RANDOLPH PRODUCTS

92 Park Place, Carlstadt. (site and/or creek: phenol, chromium, 1,2-dichloroethylene, benzene, perchloroethene, toluene, ethylbenzene, methylene, chloride, chloroform, TCE, and 1,1-dichloroethylene). Cleanup status: The DEP is not requiring a cleanup of this site.

3. DIAMOND SHAMROCK

Berry Avenue, Carlstadt. (site: PCBs, polynuclear aromatics, monochlorobenzene, chromium, zinc; creek sediment: arsenic, barium, zinc, and mercury). Cleanup status: Most of the property has been capped and ground water treatment is in place. The company is developing a remediation plan for a pond that has PCB contamination in the sediments.

4. ARSYNCO INC.

Foot of 13th Street, Carlstadt. (site: xylenes, ethylbenzene, chromium, lead, zinc, PCBs; creek sediment: ethylbenzenes, xylenes, chromium, PCBs.

Cleanup status: Company has been investigating the sources of contamination and has submitted a cleanup plan to the DEP. The plan has not yet been approved by the DEP.

5. COSAN CHEMICAL CORP.

400 14th Street, Carlstadt
(site: benzene, chlorobenzene, ethyl benzene, trichloro-ethylene, methylene, chloride, cyanide, phenol, antimony, arsenic, cadmium, chromium, copper, lead, mercury, nickel, and zinc). Cleanup status: The DEP has approved the company's plans to treat ground water and excavate contaminated soils.

6. UNIVERSAL OIL PRODUCTS

Route 17 and Paterson Plank Road, East Rutherford. (site: PCBs, polynuclear aromatics, volatile organics, metals)

Cleanup status: To date, more than, 4,000 tons of contaminated soil has been treated and 4 million gallons of ground water has been treated.

Cleanup continues and is expected to be completed in 1998.

7. SCIENTIFIC CHEMICAL PROCESSING

Paterson Plank Road, Carlstadt. (site: petroleum hydrocarbons, phenolics, volatile organics, PCBs, metals, base neutrals). Cleanup status: An interim cleanup involved the removal of tanks and drums containing hazardous wastes. A wall was constructed around the site to halt the movement of contaminants in the ground water and soil.

A final cleanup is being developed.

SOURCE: New Jersey Department of Environmental Protection, U.S. Environmental Protection Agency, and documents from Morton International and Velsicol.

(SIDEBAR, PAGE a08)

N.J. to explore Berry's Creek remedy

How bad is the problem? How to solve it?

By BRUNO TEDESCHI

Trenton Bureau. When Robert and Rita Wolf bought an old chemical plant in Wood-Ridge in the early 1970s, they may have thought they had struck gold.

After all, demolishing an old, dilapidated factory to make way for a new warehouse in the Meadowlands was a sure-fire way to make a buck in those days.

But when the Wolfs began digging in the soft, marshy soil, they discovered another shiny metal without the luster of gold: mercury.

Subsequent testing by the state Department of Environmental Protection found tons and tons of mercury in an adjacent 33-acre marshland and a stretch of Berry's Creek, a tributary of the Hackensack River.

The startling find sparked what has become one of the most protracted environmental battles in state history, and it continues to drag on with no immediate end in sight. But now there's a glimmer of hope.

This fall, more than 23 years after the pollution was first discovered and 14 years after the state Supreme Court deemed two

companies responsible for the cleanup, a remedial investigation will begin to determine the extent of contamination on the site, known as the Ventron-Velsicol Superfund site.

The investigation will be followed by a feasibility study to examine ways to clean up the property. It will be more than three years before the investigation and study of the Superfund site are completed.

"I was under the impression that they cleaned it up," said Leonore Reichert, whose Union Avenue home in Wood-Ridge was one of 10 where mercury-contaminated soil was removed by the DEP in September 1990 after Berry's Creek overflowed and flooded their property.

Many of the residents in the tiny neighborhood, flanked by Teterboro Airport to the north and factories and warehouses to the south have long since forgotten about the contaminated site.

"You really don't think about it," said Reichert's husband, Kurt, who is more concerned about the smell of diesel exhaust from idling tractor-trailers.

The Wolfs eventually built their warehouses on Ethyl Boulevard, covering most of the mercury-tainted soil with two structures and the rest with asphalt. The adjacent 33-acre tract and the creek were placed on the Superfund National Priorities List in 1983, but the U.S. Environmental Protection Agency has not begun a cleanup at the site because the responsible parties have been identified and have agreed to do the work themselves.

Critics like to point to cases such as Ventron-Velsicol as proof that the Superfund law doesn't work. But Ventron-Velsicol differs from typical cases that often get bogged down in court over who caused the pollution.

The state Supreme Court ruled in 1983 that Velsicol Chemical Corp. and Morton International, best known for its table salt, were solely responsible for the pollution on the property and totally liable for the cost of cleanup.

The precedent-setting case was the first time the court upheld the New Jersey's Spill Compensation and Control Act, which held companies responsible for past actions, even if they were legal or accepted practices at the time.

Following the court decision, Morton and Velsicol agreed in 1984 to a judicial consent order establishing a committee to develop a cleanup plan. The companies each had one representative on the committee, and the DEP had three.

"The committee was a fair attempt to say, Let's try to avoid further litigation by everybody sitting down and agreeing on the scope of this and how were going to fund it," said Richard Gimello, an assistant DEP commissioner in charge of cleanups. "Clearly, it didn't deliver on what it was supposed to do."

For more than a decade, the committee could not agree on how to go about investigating the site, whether the site and the creek should be investigated separately, or even what the boundaries of the site should be.

The delays prompted one frustrated state deputy attorney general to write in a 1995 memo to the DEP: "Please hold your fingers crossed that Ed Laird and Don Fowler have run out of stalling tactics." Laird and Fowler are lawyers who represented Morton and Velsicol, respectively.

Gimello said the lawyers "were skilled at delaying tactics and used it to their advantage."

Laird and Fowler could not be reached for comment.

But Chuck Hanson, Velsicol's vice president for operations, said the companies were not trying to delay the cleanup.

"I wouldn't characterize industry as dragging their feet," Hanson said. "These are some very complex issues relating to the creek. The site and the creek were connected for many years. There was technical and legal complexity with regard to who ought to be doing what."

Although state environmental officials wanted Morton and Velsicol to clean up its site and the creek, the DEP agreed last year to allow the investigation of only the 33-acre tract, with the understanding that an investigation of the creek would be undertaken at a later date with other possible polluters.

"You sort of reach a point when it dawns on you that you're not going to get there from here and you look for plan B," Gimello said.

"Taking the creek off the table as a practical matter forces them to deal with what they are clearly responsible for. Now that we've stopped arguing about the creek, we can say, This is your lot and blocks. This is your mercury contamination. Clean it up." The companies lawyers, however, will still be busy. Last year, Morton and Velsicol filed suit in federal court against more than 100 defendants, seeking to spread the cost of the cleanup to other companies.

GRAPHIC: 3 DON SMITH COLOR PHOTOS 1 - Top: heading upstream in a canoe on Berry's Creek, contaminated from years of use as an industrial sewer.
2 - Above: Giants Stadium serves as a backdrop for an abandoned yacht.
3 - Left: A blue heron takes to the air.

GRAPHIC - RICH RAINEY / STAFF ARTIST - BERRY'S CREEK.

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